Organization of the Report

The report is organized in the following manner:

(1) We begin with some relevant background on the history of localism in broadcasting and, in particular, how the government's promotion of local, community-oriented broadcast services has manifested itself in myriad regulatory decisions down through the years. Given the historical primacy of localism as the government's policy objective in broadcast regulation, it is impossible not to be struck by certain ironies posed by the introduction of satellite DARS, which clearly represents a major change in the policy direction of the Commission (*viz.*, national versus local service). This is by no means the first time the Commission has confronted many of the issues posed by satellite DARS; it *is*, given existing operating conditions in the radio broadcast industry, the first time resolution of the issues appears to entail such a significant departure from what has historically been the touchstone of the government's broadcasting policy literally from the beginning.

(2) We then turn to the economics of radio broadcasting and provide a brief, thumbnail sketch of how stations typically operate and compete, the economic forces affecting their programming decisions and the likely economic impacts that can be reasonably anticipated to occur as a result of market penetration by satellite DARS. We have *not* undertaken to analyze the market potential and likely technology diffusion rate for DARS, an analysis which, of necessity, would be speculative and involve a certain, irreducible degree of uncertainty. Our focus is instead on the analytical connections between DARS and competing broadcast services.

Economic theory provides a fully adequate basis for making *qualitative* predictions about the likely competitive impact of DARS. The magnitude of actual competitive impacts will, of course, depend significantly on the actual success of the new service in the marketplace. Our theoretical analysis affords a basis for qualitative assessment

of the kinds of impacts to be expected from DARS implementation. How strong these impacts will be depends, in part, on how successful DARS turns out to be. We would note, however, that given the apparent willingness of DARS suppliers to invest substantial sums of money to capitalize the service, it is both reasonable and prudent for the Commission to premise its evaluation of the likely impact of DARS on the assumption that the new service will, in the event, achieve significant market penetration and, as a competitive substitute, exert a significant impact on the economics of terrestrial radio broadcasting.[4]

If DARS is not going to be successful, it will presumably produce neither beneficial nor adverse consequences. If the Commission has authorized the service premised on the realization of certain potential beneficial impacts, analytical consistency requires an assumption of comparable "force" driving adverse consequences. Plainly it is not reasonable to assume that the new service will be very successful for purposes of gauging benefits and a complete flop for purposes of gauging adverse impacts. To fathom net impacts, the Commission needs to conduct an evaluation that is consistent in its assumptions, which is not to imply that net impacts may not vary under different sets of assumptions consistently applied.

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[4] In its *Application* (File Nos. 29/30-DSS-LA-93, 16/17-DSS-P-93, filed December 15, 1992), Primosphere states that it "has determined that there is significant demand for satellite digital radio service." In its Securities Act Registration, CD Radio states that it "does not view its service as directly competitive with . . . conventional radio programming," but simultaneously cites market research indicating that:

> . . . the principal complaint of commuters interviewed about radio was commercials. When in the car, many listeners attempt to avoid commercial interruptions by switching stations at the outset of a string of commercials. The amount of radio advertising varies with the time of day, station format and market size, but a broadcasting industry source indicates that, on average, every hour of music programming during morning and evening commutes is interrupted by 10 to 12 minutes of commercials.

These statements suggest that CD Radio does, in fact, contemplate competition for drive-time listeners.

(3) Having described the relevant historical and economic background, we th present the core of our report, which consists of six individual market case studies. We have prepared case studies for the following local radio markets: Morgan City, Louisiana; Laconia-Franklin, New Hampshire; Enid, Oklahoma; Kelso-Longview, Washington; Hanford-Coalinga, California; and Coudersport, Pennsylvania.

These markets are obviously geographically dispersed and, in our opinion (informed by our travels there), provide a good cross-section of small-town America. Within the sample of markets, there are significant variations in the level, trend and composition of economic activity. There are significant differences in the ethnic make-up and historical development of the different areas. We have focused on relatively small markets because we believe it is in this type of market where the role local radio plays as a force for community enlightenment and cohesion is most easily perceived and portrayed, and where the consequences of contemplated change are likely to be most apparent. Significant market penetration by DARS will certainly affect the operation of radio stations in big markets as well as small ones (particularly small stations operating in large markets and competing against larger, more powerful stations), but our sense is that, notwithstanding the larger numbers of stations operating in larger markets, stations operating in smaller markets are probably more economically vulnerable and likely to have their operations significantly affected by DARS.

Principal Findings

Casual perusal of the contents of this report will disclose that it consists in large measure of statements by the people we interviewed. These individuals are perfectly capable of speaking for themselves, and the main burden of this report is simply to convey those views to the Commission in a constructive and convenient way. Nevertheless, having traveled to all of the markets and conducted all of the interviews, we, as the authors of the report, are in a position to note several themes consistently sounded by participants in the study. We have thus attempted to summarize what we have heard in five principal findings, and for each finding, we cite some representative statements by study participants which support the finding.

Local radio markets are highly competitive, providing listeners with a broad array of program choices and advertisers with an effective means of reaching target audiences.

- We did a survey through the local technical college of what we consider to be our competition. We turned up 16 stations with significant audience, and there are certainly other signals that are heard. So listeners have a lot of choice and a variety of formats including jazz, classical and all-news. Our rates are down probably 20 to 30 percent from what they were in the mid-1980s for two reasons: the economy and competition. Competition has slowed our growth process in the Lakes region probably more than anything else. Even though the economy has come back, we're seeing more and more competition. (Craig Sikowski, WLNH/WBHG)

- I do not use TV. I would have to go to Manchester. That would not be cost-effective because I would be blanketing the whole state when my customer base is here. (Henry Foley, Laconia Hardware)

- [S]canning up and down the AM and FM dials, there are probably 40 to 50 signals. Here in Enid we have news/talk, contemporary country, classic country and an oldies/adult contemporary mix station. There is real competition for Enid coming from Oklahoma City. . . . They have the classic rock stations, the album-oriented rock stations, the contemporary hit stations, there's a jazz station. There are classical-format public stations. (Bert Chambers, KGWA/KOFM)

- There are two very strong Portland radio stations that are country with whom we compete. Then there are stations that are playing a variety of other musical formats, everything from hard rock to soft rock to jazz, classical, what have you. . . . It isn't strictly a matter of format availability either. For example, KBAM does a significant amount of Spanish programming and on a couple of occasions has tried some Vietnamese programming. (Steve Hanson, KLOG/KUKN)

- [W]e pick up quite a large number of signals — 45 or 50 signals. We've probably got about 30 AM signals we're competing against plus all the FMs.

Then you've got cable TV, satellite TV, direct TV, laser disc TV. People also have their CD players and their cassette players. The market is pretty saturated. (Ken Niles, KFO)

As competition in radio broadcasting (and related markets) has intensified through the years, station operators have adapted by economizing on programming costs, personnel expenditures and other variable inputs, often substituting satellite program feed for locally originated programming. Joint operation of multiple stations has also provided an important means of achieving cost economies.

- [T]he shift in the population of merchants has an impact. There's no way for us to get to those dollars. This past year we've probably spent more time looking at how we can attract national dollars than we have at any time in the past. (Bert Chambers, KGWA/KOFM)

- A lot of stations have gone to computerized national syndication shows and satellite services because they simply cannot afford the talent to stay open. . . . You can't help it. To keep the station on the air, you become a local conduit for national programming. Within those constraints, you do your best locally. (Hiram Champlin, KCRC/KNIO/KXLS)

- Being able to operate the FM station was a big boost for us. If you look at an AM stand-alone radio station trying to survive in the marketplace, competing against the FMs that pull in 75 percent of the audience, it's definitely an uphill battle trying to survive. I know because that's what we were doing for a number of years. We've been helped by the economy of scale of operating the AM with our FM. . . . That has meant we can serve the community better. (Steve Hanson, KLOG/KUKN)

- Local radio is already being lost. Stations are under significant financial pressure, so they will do three hours in the morning of local programming. The rest of it will be satellite. . . . If your purpose is to work with your community and inform your community and be a part of your community, you simply can't do it or do as much. (Tony Vieira, KIGS)

- We have stations nowadays where they have virtually nobody at the station because they can remote their transmitters. . . . Obviously, more and more

stations will be drawn to that kind of operation as their ability to earn revenues disappears. (Tony Vieira, KIGS)

- These operations are so marginal that if anybody else were going to buy them, they also would be trying to operate them as a team of stations. The stations are so close to the margin that if it were not possible to combine the similar tasks of each of the stations into one person's responsibility, then the station just simply would not continue to operate. (Cary Simpson, Allegheny Mountain Network)

- The result has been that our Coudersport stations are not normally manned after about 1:00 in the afternoon. We go to satellite programming. In the mornings, we try to do a job covering local news and local activities, and furnishing a local service. . . . Then, at that point, we simply have nobody sitting there running the station. We have a central place where all of the readings are taken. The phones are call-forwarded so that if a lost-dog call or other message comes in, we'll take the call and then we'll either save it for the next day, or if there is a serious emergency, we will go on the air on that station. (Cary Simpson, Allegheny Mountain Network)

Stations licensed to these markets play a vital role in the life of the communities they serve, providing an important forum for discussion of significant issues of public importance, a productive catalyst for organization of community affairs, local charities and social action, and an effective vehicle for dissemination of many different types of information of interest to diverse groups within the local community.

- We were the information station. The parish government needed us back on the air because they were being inundated with calls for help and information. Once we were back on the air, we could get the information out and they could use the phones for the other things that needed to be done. . . . We let people know everything from contractors to roofers, what hours they could shop, what numbers to call in an emergency, anything you could possibly think of. Without local radio, where would this community have been? (Paul Cook, KFXY)

- Radio is an intricate part of what we are all about. The local news aspect is very, very important. These guys get out there and they cover the local meetings, parish councils, the city council meetings . . . and bring us up-to-date on things that we need to know to be a viable community. . . . I can't see a national service having that same interest. Peter Jennings is not concerned with what happens down here in Morgan City, Louisiana. (Emile Babin, Chamber of Commerce)

- People in Washington should understand. They are not just sitting here with a tower rebroadcasting something they get from a national network, but they actually have a real local presence. . . . I wouldn't have had that opportunity if it was strictly national satellite programming because the local component would be missing. (Lynn Carnicke, Lakes Region General Hospital)

- It is important to have some local connection whether it's with high-school athletes or the local deejay who is involved in a way that some banker who works for Super Giant Bank of America cannot be. It makes a difference. It's what establishes the identity of a place. (Hiram Champlin, KCRC/KNIO/KXLS)

- For communities of this size, it's absolutely necessary to have a flow of information. Not just to communicate during emergencies, but also to ensure a discussion of public issues that keeps people in touch. (Mike Cooper, Mayor)

- I think people not only appreciate that, but they have come to rely on it. It is one of those things where you would kind of feel lost if you did not get the information or if a community need were not addressed. (Jed Dillingham, Dillingham-Martin Insurance)

- One of the prime mechanisms we utilize in doing that is the airwaves — the local radio and television stations. That's one of the foremost ways in which we are able to get information out to the community about what's happening with their local government. (Ed Irby, City Manager)

- It is a wonderful way to set an example for the other kids in the area. . . . We're hoping that by doing this — recognizing excellence by these students — hopefully other kids will say, 'Gee, I'd like to pattern myself after Susie Smith.' That's contributing to the moral fiber of the community. These are the types if things that radio stations can do. (Steve Hanson, KLOG/KUKN)

- This community is very oriented around community service and people helping each other, and the radio stations are promoting that all the time. They support all the things we do and they're always willing to bend over backwards to help organizations in the community to do what they're doing to help other people out. (Cheryl Spencer, Chamber of Commerce)

- I think there is another important aspect of radio. In a community such as this, we also have to be realistic and face reality in terms of the reading levels. Even though we have two different weekly newspapers, the reading level for those newspapers is much too high for many of the people. So once again, how do you overcome that? (Dr. Joseph Rudnicki, District School Superintendent)

- What was happening was that we were beginning to hear this oral tradition of what the community, what the local culture, what our football team, what we're all about. And then, of course, we used it all on the air. . . . What this kind of thing does is it starts to bind people together and form a cohesiveness

that otherwise is much more disbursed. (Dr. Joseph Rudnicki, Distri School Superintendent)

- [W]e plan to follow up on those kids and talk to this year's seniors about where they are going and what they're planning to do. We think this is a great way to create role models for our younger students. Kids need heros to admire and emulate. . . . These sports broadcasts are supplying us with a great way to send those kinds of messages, one with which the kids really identify. (Dr. Joseph Rudnicki, District School Superintendent)

Study participants perceive that implementation of satellite DARS will necessarily compel additional efforts to economize on programming costs as audiences are further divided, and that, lacking adequate alternatives, communities will inevitably suffer some degradation in the local community services they currently receive to the detriment of the local community's ability to thrive and cohere as a special place.

- They're not going to compete with us for the local dollars, but they are going to compete with us for local audience. That will weaken us. And it will not just weaken the radio market, it will weaken the whole local economy. . . . We could cut our costs by tomorrow morning. . . . We've got everything we need, including the satellite link. If we reduced our billing 50 percent by doing that, we'd still make a profit and probably make a better profit than we do now. But would we actually be serving the community? The answer is 'no.' . . . I could close this building, put the station in a 12' x 40' mobile home and still be on the air. But I'd hardly be a local station anymore. (Paul Cook, KQKI)

- This kind of competition is going to hurt the local supermarket, the local bank, the local retailer generally. . . . [I]f people are listening to a national satellite channel, they won't hear that commercial. (Dennis Miller, KFXY)

- If this new satellite service slices the pie even smaller for local stations, we are going to have to cut back even more in terms of what we do locally. . . . We're able to do these things largely because we have the manpower and the staff to do it. But the logical result of a further fragmentation of our audience is that we have to look for other places to save. . . . It doesn't take a genius to see that this kind of growth hits at the very heart of our industry, certainly in a small town. It saps both our energy and our ability to provide the kinds of service that we provide. (Jeff Fisher, WFTN)

- [T]his is the kind of thing you begin to lose if you have to cut costs. How do you get somebody to be here 24 hours a day when it is so easy to flip a switch and automate the operation? You start eliminating pagers. You don't find the guy down in Oklahoma City who monitors the weather. You let the National Weather Service do it. (Hiram Champlin, KCRC/KNIO/KXLS)

- The fact that the local stations are involved in the community is good, but they still need to produce results. Otherwise, you feel like you are just pouring money down the drain. If there were a reduction in the listenership, I think we would start spreading our dollars out or we might actually just quit using that medium to advertise. (Jed Dillingham, Dillingham-Martin Insurance)

- If we had made these cuts in the past, we probably would not have had enough people to do what we did in terms of the Vance Base-closing threat. There's no way that satellite could or would have done what we did. . . . If any of those people had not been on staff, if we had not had them, some part of that would not have happened. (Bert Chambers, KGWA/KOFM)

- I think what helps bridge that gap at the local level is the communication that comes through the radio. If we didn't have our local radio stations or if they, for some reason, couldn't do as good a job, I think our town would be harmed. (Ed Irby, City Manager)

- We are a local business and do all of our advertising locally. If local radio were less effective in reaching people, we'd have a hard time getting to our customers. (Bob Schlert, Bob's Warehouse)

- The big equation is people, these people that serve the community. . . . What happens to those things for the community when you look at it and say, 'Okay, well here's this satellite and the writing's on the wall'? The first thing you cut is people. What happens then to the community service that you were able to provide before? It gets cut. . . . How do you serve the community with no people? (Steve Hanson, KLOG/KUKN)

- There are a lot of small local businesses that are in very competitive markets and just barely surviving. To succeed, they need to advertise what they can do locally and they need to be able to do so at an affordable price. If local radio's ability to deliver audiences is reduced, you're going to hurt and maybe eliminate some of those businesses. (Pat Savi, Automobile Dealer)

- It is extremely easy to run a radio station with no staff. But that type of operation can't be relevant to its community. It just becomes another of the various packaged music or satellite-network program services. (Cary Simpson, Allegheny Mountain Network)

There is a clearly perceived tension between any benefits of a new *national* radio service derived from additional choice among or within homogeneous and geographically undifferentiated program formats, on the one hand, and the benefits of *local* broadcast services oriented around the lives of a very large number of diverse, individual communities, on the other.

- [T]he question becomes at some point whether we can afford to be in the business. . . . The point is to let the people know the facts. . . . Without us here people wouldn't know. That's what the FCC has to understand. They have to realize that a satellite radio service cannot provide this information. (Dennis Miller, KFXY)

- I think that satellite networks today provide a very attractive alternative for radio stations. However, to compete locally and to make ourselves a more integral part of the community, we try to generate as much broadcasting locally as we can. . . . And obviously, if you had to tighten the belt further, it's the first place you cut. We then have to rely even more on satellite programming. At some point, we'll all sound alike. We may be moving to homogenize radio broadcasting. (Jeff Fisher, WFTN)

- [T]his is such a blatant contradiction because they're talking about a service which is totally devoid of anything local and which is going to force broadcasters, who now offer that local service to offer less, by the sheer economics of it. (Jeff Fisher, WFTN)

- I like the idea that I can have as much information as I want and can have access to national services, but not if that's going to turn us into a homogeneous kind of society where we forget our own roots and if it locks out the community sense and the community feeling. (Judy Buswell, Lakes Region General Hospital)

- We'll always do the best that we can do. We are committed to this community. We've lived here all our lives. This is what we are about and we'll do the best that we can do. But the fewer people that we have, the less

we'll be able to do. That's how I see this national service impacting local service. (Bert Chambers, KGWA/KOFM)

- I'll guarantee you that there is not one baseball field you can go to in Longview and see a Wal-Mart team or a Target team or any of the national firms — none of those support the local area. We do, and so do our local radio stations. They're out there pitching things and they do a lot on their own that they're not getting paid for. . . . What happens to the community when the local support and involvement dry up? (Bob Schlert, Bob's Warehouse)

- What's going to happen if we take away the mechanism for us to communicate with the people and for the people to become better informed citizens? If you've got a satellite that gives you information about what's happening in Washington, D.C., but doesn't tell you what's happening in Longview, Washington, where are you going to get that information? (Ed Irby, City Manager)

- A lot of stations have shut the door already. They can't survive with all the competition they face. Other stations have gone to satellite programming — talk shows or music packages from the satellite. But you lose something because we're on the air live here in this town. (Ken Niles, KFO)

- My choice is going to be to find another format that permits the station to survive. That may be more satellite feed or prepackaged programming. That would leave the community with less service or perhaps no service at all, no information, back to where it was years and years ago. (Tony Vieira, KIGS)

- If they are taking for granted that the small-town radio station is so resilient that it can survive every possible challenge, I think they are wrong. There is a point where it can no longer survive. What we will then have are all sorts of plug-in local radio outlets. . . . So every town had a radio station throughout the country, but no town had a real radio station. (Cary Simpson, Allegheny Mountain Network)

The Legacy of Localism in Broadcast Regulation

> **[N]ew technologies do not always enhance locally-originated service in many communities across the Nation. Therefore, the [Senate Commerce] Committee believes that it is equally important to support policies that will expand opportunities for existing local service in rural and suburban areas.**
>
> **Senate Commerce Committee, June 27, 1983**

Traditional Radio as a "Local Voice"

In its Notice, the Commission has recognized the distinct differences in the character of the new satellite radio service being proposed and traditional radio service. Satellite radio is primarily conceived of as a national service, with programming material directed toward homogenous national audience groupings. Traditional radio is quintessentially a local service with a complex tapestry of program offerings which reflect the diversity of each of a large number of communities served. The advent of satellite radio poses important issues in terms of the Commission's ability to preserve community-oriented broadcasting services. The Commission has a long-standing policy commitment to fostering and preserving a "local voice" for each community. Throughout the course of its history, the Commission has emphasized the public-interest benefits of community-based broadcast services and the preeminence of localism in radio (and later television) broadcasting as a principal objective of government regulatory policy. It has frequently and consciously sacrificed the economies of scale associated with national/regional operations to preserve localism in broadcasting.

To the extent that DARS succeeds, it will necessarily affect the operations of local radio stations. In evaluating DARS, the Commission thus necessarily confronts a policy tradeoff between any putative benefits of additional national program services and (loss of) the kinds of benefits traditionally associated with local, community-

oriented radio services. We thus begin with a brief review of the policy priorities th have historically governed the provision of radio broadcast services.

Origins and Importance of Localism in Broadcasting

From the beginning, the pursuit of localism has permeated broadcast policy and regulation. A policy preference for local service can be inferred from the Communications Act itself, Section 307(b) of which provides in part:

> [T]he Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.

Over time, the Commission has made localism an integral part of its "public interest, convenience, and necessity" decision criterion and a major factor in evaluating various program and rulemaking proposals. For example:

- In 1946, the FCC Commission issued a comprehensive statement on program criteria for license applicants in the so-called *Blue Book*.[5] In the *Blue Book*, the Commission stated that it has "given repeated and explicit recognition to the need for adequate selection in programs of *local* interests, activities and talent "[6] [emphasis added].

[5] FCC, *Public Service Responsibility of Broadcast Licensees* (Washington: Government Printing Office, 1946).

[6] *Op. cit.*, p. 37.

- In 1948, the Court of Appeals upheld the Commission's denial of an application for improved facilities based on the licensee's proposal to act as a "mere relay station" for network programs.[7]

- In 1960, the *Blue Book* was superseded by a briefer programming policy statement.[8] The 1960 statement included "*opportunity for local self-expression*" as one of the "*major elements usually necessary to meet the public interest*, needs and desires of the community" [emphasis added].

- In 1962, the Court of Appeals upheld the FCC in refusing an applicant for an FM license in Elizabeth, New Jersey because he proposed a schedule identical with programs on stations in Illinois and California, with no effort to discover whether it met the actual needs of Elizabeth.[9]

- In 1966, the Commission sought further measures to discourage broadcast of syndicated programming and to encourage more local programming. It revised its renewal or new-station application forms (Section IV-A of Form 301), requiring an applicant to:

  1. Describe the methods used to ascertain the "needs and interests of the public served by the station," identifying "groups, interests and organizations" consulted and areas to be served.

  2. Describe "significant needs and interests of the public" he proposed to serve.

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[7] *Simmons v. FCC*, 169 F. (2d) 670 (1948).

[8] FCC, "Report and Statement of Policy re: Commission En Banc Programming Inquiry," 25 *Fed. Reg.* 7291 (1960).

[9] *Patrick Henry, et al. v. FCC*, 302 F. (2d) 191 (1962).

3. List typical programs planned to satisfy the needs and interests identified.

The importance of preserving localism has also frequently been reflected in Acts of Congress. Both the 1927 Radio Act and the Communications Act of 1934 stressed the concept of community-based broadcasting. Congress also enacted the All-Channel Television Receiver Act of 1962[10] which required television receivers to be capable of receiving both VHF and UHF. Regarding this bill, the House Committee on Interstate and Foreign Commerce reported:

> The goal is a commercial television system which will be not only truly competitive on a national scale in all large centers of population, but would permit all communities of appreciable size to have at least one television station as an outlet for local self-expression.

Specific Instances of FCC Action to Promote Localism

The Commission's historical preference for localism in broadcasting has been revealed in key policy decisions in several different areas.

Spectrum Allocation

Regulators have from the outset sought to allocate the radio spectrum in a manner consistent with the operation of a large number of local stations. AM, FM and television station channel assignments have all reflected this service priority. The Federal Radio Commission (predecessor to the Federal Communications Commission) initially authorized operation of AM stations on three kinds of channels: clear, regional, and local. Stations on clear channels were authorized to operate with high power, and were afforded virtually complete protection against interference from other stations, thereby achieving wide area coverage and providing service

[10] 150 (1962).

areas without local stations. Assignments on regional and local channels were reserved for lower-powered stations, with regional channels designed for local service to large metropolitan areas and local channels designed for local service to communities within and outside metropolitan areas.

The Commission could easily have achieved national broadcast coverage with less spectrum if it had not perceived the desirability of making provision for local stations. The Commission conceived the importance of local stations in terms of providing outlets for local news and forums for discussion of issues of local interest and importance. It also recognized the utility of local broadcast services in supplying a vehicle for local advertising and thus strengthening local economies, as well as provision of local information about natural disasters, weather conditions and other emergencies. Through the years, the Commission has carved out literally thousands of local station assignments in the AM band.

The Commission's breakdown of the clear channel station assignments over time further reveals the importance it has placed on localism in broadcasting. As noted previously, clear channel frequencies were originally set aside for use by single stations, which were to operate at high power and serve large geographic areas. During the 1930s, many additional stations were permitted to operate on the clear channels. Most of these were authorized to operate only during daylight hours, when clear channel stations did not provide skywave[11] service. Authorization of these stations (designated as Class II stations in 1939) to duplicate clear channels prompted complaints from clear channel broadcasters that Class II station assignments would limit area coverage and preclude power increases by clear channel stations. The Commission, however, put a higher priority on creation of additional local voices.

[11] AM signals follow the contour of the earth during the daylight hours, and therefore do not travel as far as at night when skywave service is possible. As a result, more stations can operate simultaneously on the same frequency during the day.

In 1961, the Commission adopted a further proposal to authorize new unlimited-time Class II stations on 13 of the 25 previously-unduplicated clear channel frequencies[12] and denied requests to increase clear channel power. This ruling resulted in establishment of additional local services in many small communities in the western part of the country.

In 1980, the Commission essentially decided to end the concept of clear channel stations on a going-forward basis, affording protection to those stations from interference only for a radius of 750 miles.[13] In justifying its action, the Commission explicitly remarked on the need to balance national versus local broadcasting:

> Clear channel stations provided one method of achieving the goal of at least one service to as many people as possible. However, that use of spectrum space also hindered the ability to provide outlets for self-expression to as many communities as practicable.

The Commission then reiterated that one of its basic goals, pursued since 1927 in setting conditions for the assignment of radio broadcast stations, was to provide "outlets for local self expression addressed to each community's needs and interests." The Commission's action permitted an additional 125 stations to broadcast at night. The new stations were limited to 1 kw of power, but clear channel stations could not operate above 50 kw of power. In a similar vein, the Commission voted in 1985 to allow full-time stations to use frequencies previously reserved for foreign clear channel stations.[14]

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[12] *See* FCC Docket 6741.

[13] 1980 *Report and Order,* In the Matter of Clear Channel Broadcasting in the AM Broadcast Band (Docket No. 20642, adopted May 29, 1980).

[14] AM Broadcast Stations (Nighttime Operations on Canadian, Mexican and Bahamian Clear Channels), 101 F.C.C.2d 1, R.R.2d 655 (1985).

Congress has also frequently weighed in on the side of localism. For example, on March 22, 1983, Senator Larry Pressler (R-SD) introduced S. 880[15]; a bill to direct the Commission to extend operating hours of daytime radio stations, and to reduce the procedural burdens placed upon such stations when they apply for extended hours or for new licenses. The Senate Commerce Committee report[16] acknowledged advances in communications technology, but remarked that:

> [N]ew technologies do not always enhance locally-originated service in many communities across the Nation. Therefore, the [Senate Commerce] Committee believes that it is *equally important* to support policies that will expand opportunities for existing local service in rural and suburban areas [emphasis added].

The Committee explicitly noted the importance of localism and the disadvantages suffered in communities lacking a local broadcast service:

> Residents of those communities lack sufficient access to much needed information about local weather and highway conditions. . . . [R]esidents often cannot receive timely announcements of school and factory closings or cancellations of public events. They may be denied coverage of evening local news, government meetings, or election results. Local school sporting events or other activities often cannot be broadcast to those communities.

The Committee also noted several critical connections between audience size, advertising revenues and program quality:

> Daytimers cannot compete effectively for audiences and advertising revenues because they often are not able to broadcast during radio's prime time — the 'drive time' hours when listeners are most likely to be in their cars. Lower advertising revenues mean that daytimers

[15] Although this legislation was not enacted, subsequent FCC action accomplished many of the bill's objectives.

[16] Report No. 98-165 (June 27, 1983). *Daytime Radio Broadcasters.*

> cannot afford to provide all of the quality programming options that their listeners may desire.

The Committee acknowledged that expanded daytimer hours might impinge on some clear channel services, but determined it to be "*more important* to promote local service during the transition hours than to protect the skywave signals of distant clear channel stations" [emphasis added].

The current distribution of AM stations by class, with a predominance of limited-service-range stations, attests to the importance the Commission has attached to local service. In 1994, only 57 of 4,861 AM radio stations were identified as clear channels, which enjoy the most extended service range protection. The remainder operate under varying degrees of range, power and operating time limitations.[17]

In its tables for TV and FM station allocations, the Commission also placed a high priority on every community's having its own local station. The fact that the Commission allocated such a large amount of spectrum to these services itself attests to the importance attached to localism. If local stations were not important, the same number of simple listening options could have been produced with far less spectrum. In establishing its allocations, the Commission decided against creation of national or regional high-power TV stations, which could have simultaneously covered large areas, ensured more people more stations, and/or saved frequency space. It prohibited operation of Class C FM radio stations — those with the broadest reach — in part or all of 18 northeastern states (plus the District of Columbia) and Southern California. It took these actions precisely because of the value it attached to local community-oriented broadcast services.

[17] *Broadcasting & Cable Yearbook 1994*, pp. B-486 to B-501.

Licensing

The importance of local service has also been reflected in the Commission's licensing policies. Full-time participation in station operation by owners and local residence of applicants have been factors deemed to be of "substantial" importance in awarding broadcast licenses. The Commission has stated that "it is inherently desirable that local responsibility and day-to-day performance be closely associated" and that "there is a likelihood of greater sensitivity to an area's changing needs" to the extent that the proprietors participate in day-to-day operation.[18] Therefore, in the case of competing applications, an applicant who proposes to participate actively in the station's operation is preferred over one who will rely solely upon a hired staff.

The 1946 *Blue Book* stressed that, although licensees bore the primary responsibility for program service, the Commission would give particular consideration to four program service factors in issuing and renewing licenses. One of those categories was local live programs to encourage local self-expression. The later 1960 *en banc* programming policy statement asserted that:

> [T]he principal ingredient of the licensee's obligation to operate his station in the public interest is the diligent, positive and continuing effort . . . to discover and fulfill the tastes, needs and desires of his service area, for broadcast service.[19]

Broadcasters were advised to accomplish these objectives in two ways: by consulting with members of the listening public receiving the signal and by consulting with a variety of community leaders.

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[18] 1 F.C.C.2d at 395.

[19] *In Report and Statement of Policy Re: Commission En Banc Programming Inquiry,* 25 Fed.Reg. 7291, 20 R.R. 1901 (1960).

Also, to further localism, the Commission gave an applicant an advantage if he could demonstrate he had actively and personally participated in the life of the community. A 1965 *Policy Statement on Comparative Broadcast Hearings* gave stations operators with local residence and involvement preference:

> We consider [full-time participation in station operation by owners] to be of substantial importance . . . there is a likelihood of greater sensitivity to an area's changing needs, and of programming designed to serve these needs, to the extent that the station's proprietors actively participate in the day-to-day operation of the station. . . . Attributes of participating owners, such as their experience and local residence, will also be considered in weighing integration of ownership and management.[20]

In 1971, the Commission elaborated upon programming obligations in a *Primer*[21] on ascertaining and programming for community needs. The ascertainment process was geared to help assure all significant segments of a community (at a minimum) be contacted so that a station could make an informed judgment about the issues it should cover.

Although the Commission eventually decided to do away with its formal requirement for a formal ascertainment process and other regulations designed to ensure specific amounts of local programming service, it emphasized that local programming remained an important part of the licensees' obligation. In deregulating radio,[22] the Commission said that licensees were "free to determine the issues in their community that warrant consideration and may do so by any reasonable means."[23] The Commission reiterated that localism remained an important policy objective.

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[20] 1 F.C.C.2d 393, 5 R.R.2d 1901.

[21] *The Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 F.C.C.2d 650, 21 R.R.2d 1507 (1971).

[22] *Report and Order*, In the Matter of Deregulation of Radio (BC Docket No. 79-219), Adopted January 14, 1981.

[23] At ¶ 56.